

33:IX.2701.L.7.

## VII.

A file review conducted by the Department on or about November 17, 2015, revealed that the Respondent failed to sample in accordance with LPDES permit LA0059455 as follows:

| Monitoring Period            | Outfall | Parameter        |
|------------------------------|---------|------------------|
| January 2011                 | 001     | Total Cadmium    |
|                              |         | Total Copper     |
|                              |         | Total Chromium   |
|                              |         | Total Lead       |
|                              |         | Total Mercury    |
|                              |         | Total Nickel     |
|                              |         | Total Zinc       |
| February 2011                | 001     | Total Cadmium    |
|                              |         | Total Copper     |
|                              |         | Total Chromium   |
|                              |         | Total Lead       |
|                              |         | Total Mercury    |
|                              |         | Total Nickel     |
|                              |         | Total Zinc       |
| 1 <sup>st</sup> Qtr. of 2011 | 005*    | pH               |
|                              |         | Oil and Grease   |
|                              |         | TOC              |
|                              | 011*    | BOD <sub>5</sub> |
|                              |         | pH               |
|                              |         | TSS              |
|                              |         | Fecal Coliform   |
| 1 <sup>st</sup> Qtr. of 2014 | 005*    | pH               |
|                              |         | Oil and Grease   |
|                              |         | TOC              |
| 3 <sup>rd</sup> Qtr. of 2014 | 005*    | pH               |
|                              |         | Oil and Grease   |
|                              |         | TOC              |
|                              | 008     | pH               |
|                              |         |                  |
| October 2014                 | 04A     | pH               |
| 1 <sup>st</sup> Qtr. of 2015 | 005*    | pH               |
|                              |         | Oil and Grease   |
|                              |         | TOC              |
| June 2015                    | 04A*    | COD              |
|                              |         | pH               |
|                              |         | Oil and Grease   |
| 2 <sup>nd</sup> Qtr. of 2015 | 005*    | pH               |

| Monitoring Period            | Outfall | Parameter        |
|------------------------------|---------|------------------|
| 1 <sup>st</sup> Half of 2015 | 009*    | Oil and Grease   |
|                              |         | TOC              |
|                              |         | BOD <sub>5</sub> |
|                              |         | pH               |
|                              |         | TSS              |
|                              |         | Fecal Coliform   |

\* Failed to report flow.

The Respondent stated on DMRs and/or Quarterly Summary Reports that the samples referenced in the aforementioned table were overlooked. Additionally, the Respondent failed to report flow for the outfalls indicated by an asterisk (\*) in the aforementioned table. Each failure to sample is a violation of LPDES permit LA0059455 (Effluent Limitations and Monitoring Requirements, Pages 2, 3, 5, 7, 8, and 10 of 14; and Standard Conditions for LPDES Permits, Sections A.2, and C.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A. Each failure to report flow is a violation of LPDES permit LA0059455 (Other Requirements, Section AA; and Standard Conditions for LPDES Permits, Section A.2), La R.S. 30:2076 (A)(3), and LAC 33:IX.2701.L.4.a.

### COMPLIANCE ORDER

Based on the foregoing, the Respondent is **hereby ordered**:

#### I.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Hazardous Waste and Air Quality Regulations.

#### II.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with LAC 33:III.2113.A.2.

#### III.

To label or mark clearly, within thirty (30) days upon receipt of this **COMPLIANCE ORDER**, all containers in which used oil is stored with the words "Used Oil," in accordance with LAC 33:V.4013.D.1.

#### IV.

To close, immediately upon receipt of this **COMPLIANCE ORDER**, all containers of used oil, including the drums in the Hazardous Waste Container Storage Area, except when it is necessary to add

or remove waste, and to institute procedures to ensure that containers storing used oil remain closed except when necessary to add or remove waste, in accordance with LAC 33.V.4013.B.

V.

To close, immediately upon receipt of this **COMPLIANCE ORDER**, all containers of hazardous waste, including the hatches of the containers on the Chotin Barge, except when it is necessary to add or remove waste, and to institute procedures to ensure that containers storing hazardous waste remain closed except when necessary to add or remove waste, in accordance with LAC 33:V1109.E.1.a.i.

VI.

To label or mark clearly, within thirty (30) days upon receipt of this **COMPLIANCE ORDER**, all containers in which hazardous waste is stored with the date the container began accumulating hazardous waste, in accordance with LAC 33:V.1109.E.1.c.

VII.

To label or mark clearly, within thirty (30) days upon receipt of this **COMPLIANCE ORDER**, all containers of hazardous waste with the words "Hazardous Waste," in accordance with LAC 33:V.1109.E.1.d.

VIII.

To institute procedures, immediately upon receipt of this **COMPLIANCE ORDER**, to ensure the manifests include the description of the wastes required by Hazardous Waste regulations of the Louisiana Department of Public Safety in LAC 33:V.Subpart 2.Chapter 101, in accordance with LAC 33:V.1107.B.1.d.

IX.

To institute procedures, immediately upon receipt of this **COMPLIANCE ORDER**, to ensure the EPA hazardous waste code and the correct quantity of each hazardous waste shipped off-site for shipments to a treatment, storage, or disposal facility are included on the annual report, in accordance with LAC 33:V.1111.B.1.e.

X.

To submit, within thirty (30) days upon receipt of this **COMPLIANCE ORDER**, a copy of the contingency plan, which shall include an up-to-date copy of list of emergency coordinators and a description of arrangements with local police departments, fire departments, hospitals, contractors, and

state and local emergency response teams to coordinate emergency services, to the Enforcement Division.

#### XI.

To institute procedures, immediately upon receipt of this **COMPLIANCE ORDER**, to ensure the records of hazardous waste training for employees are maintained at the facility in accordance with LAC 33:V.1109.E.1.e.

#### XII.

To remove, within sixty (60) days after receipt of this **COMPLIANCE ORDER**, all solid waste at the Site to a permitted or authorized solid waste disposal facility and submit documentation of proper disposal to the Enforcement Division.

#### XIII.

To immediately take, upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to achieve and maintain compliance with the limitations and conditions contained in LPDES permit LA0059455 and the Water Quality Regulations including, but not limited to, complying with all effluent limitations, submitting NCRs, sampling, and reporting flow.

#### XIV.

To submit a completed NetDMR Subscriber Agreement to the Department for approval to submit DMRs electronically using NetDMR, within thirty (30) days after receipt of this **COMPLIANCE ORDER**. The Subscriber Agreement shall be signed and dated with an original signature and submitted to:

Office of Environmental Compliance  
Post Office Box 4312  
Baton Rouge, Louisiana 70821-4312  
**Attn: NetDMR**  
**Re: Enforcement Tracking No. MM-CN-15-01245**  
**Agency Interest No. 8056**

NetDMR is accessed through: [www.epa.gov/netdmr](http://www.epa.gov/netdmr). For assistance establishing and maintaining a NetDMR account or for NetDMR training, see attached instructions or contact the Permit Compliance Unit at [deqnetdmr@la.gov](mailto:deqnetdmr@la.gov).

#### XV.

To submit DMRs and associated reports electronically using NetDMR beginning with the first monitoring period after approval of the NetDMR Subscriber Agreement unless otherwise notified in writing by the Department.

XVI.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken or to be taken to achieve compliance with the Order. Portion of this **COMPLIANCE ORDER**. This report and all other reports or information required to be submitted to the Enforcement Division by this **COMPLIANCE ORDER** shall be submitted to:

Office of Environmental Compliance  
Post Office Box 4312  
Baton Rouge, Louisiana 70821-4312  
**Attn: Cynthia Arrison**  
**Re: Enforcement Tracking No. MM-CN-15-01245**  
**Agency Interest No. 8056**

**THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:**

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality  
Office of the Secretary  
Post Office Box 4302  
Baton Rouge, Louisiana 70821-4302  
**Attn: Hearings Clerk, Legal Division**  
**Re: Enforcement Tracking No. MM-CN-15-01245**  
**Agency Interest No. 8056**

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S.

49:950, et seq.), and the Department's Rules of Procedure. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

#### IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

#### V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

#### VI.

Civil penalties of not more than twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

#### VII.

For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.

### NOTICE OF POTENTIAL PENALTY

#### I.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed

regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

## II.

Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Cynthia Arrison at (225) 219-3796 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

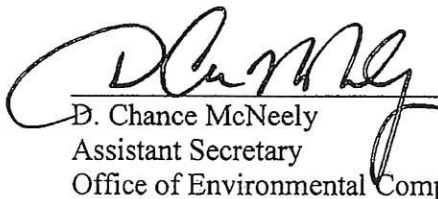
## III.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violation(s) to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify that statement.

## IV.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 4 day of January, 2016

  
 D. Chance McNeely  
 Assistant Secretary  
 Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality  
Office of Environmental Compliance  
Enforcement Division  
P.O. Box 4312  
Baton Rouge, LA 70821-4312  
Attention: Cynthia Arrison